

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS (Boston)**

In Re: Carl H. Herisse	Case Number 13-13757 Chapter 13
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**MOTION OF U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR
STRUCTURED ASSET SECURITIES CORPORATION, MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2006-BC6 TO CLARIFY AND/OR RECONSIDER ORDER ON
MOTION FOR RELIEF FROM THE AUTOMATIC STAY [DOC. NO. 67]**

Now comes U.S. Bank National Association, as Trustee for Structured Asset Securities Corporation, Mortgage Pass-Through Certificates, Series 2006-BC6 (“Secured Creditor”) and hereby files this Motion to Clarify and/or Reconsider the Court’s Order of May 14, 2018 denying Secured Creditor’s Motion for Relief from the Automatic Stay [Doc. No. 67]. As grounds for this Motion, Secured Creditor states the following:

1. Carl H. Herisse (a/k/a Carl-Henri Herisse) (hereinafter referred to as the “Debtor”) is the mortgagor of a certain parcel of real estate known and numbered as *6 Beech Tree Lane, Holbrook, MA 02343* (the “Property”). The Property is encumbered by a first mortgage given by the Debtor and non-debtor and co-mortgagor, Pamela R. Herisse, to Option One Mortgage Corporation (the “Mortgage”). The Mortgage is dated August 29, 2006 and is recorded in Norfolk County Registry of Deeds in Book 24026, Page 537, as affected by the Loan Modification Agreement approved by order of this Court of October 21, 2014 [see Doc. No. 54]. The Mortgage was thereafter assigned to Secured Creditor. Ocwen Loan Servicing, LLC (“Ocwen”) is the current servicer for this loan on behalf of Secured Creditor.
2. The Mortgage secures a promissory note given by the Debtor and non-debtor and co-mortgagor, Pamela R. Herisse, to Option One Mortgage Corporation in the original principal amount of \$569,905.00 (the “Note”).
3. The Debtor’s Chapter 13 Petition was filed on June 20, 2013.
4. Pursuant to the Debtor’s (Amended) Chapter 13 Plan, the Property is to be surrendered.
5. On or about May 10, 2018, Secured Creditor filed a Motion for Relief based upon the Debtor’s failure to remain current with post-petition mortgage payments [Doc. No. 61]. An Affidavit of Service was filed concurrently with such Motion [Doc. No. 62]. At the time that said Motion

was filed, the underlying mortgage account was in arrearage post-petition in the amount of \$4,986.83, excluding attorney's fees and costs.

6. The Court entered an order to correct deficiency on May 11, 2018 [Doc. No. 63], requesting additional service be performed upon judicial lienholder, Discover Bank, in compliance with Fed. Rule of Bankr. Proc. 7004(h) specifically. Thereafter, Secured Creditor filed a Supplemental Certificate of Service and Supplemental Affidavit of Service [Doc. No. 65 and 66 respectively] to address such order.
7. On May 14, 2018, the Court subsequently entered an order denying Secured Creditor's Motion for Relief from the Automatic Stay [Doc. No. 67] outright due to improper service upon two additional judicial lienholders, Midland Funding LLC and Cach LLC, which has not been identified in its original order to correct deficiency of May 11, 2018.
8. To the extent that the Court has deemed the underlying Motion for Relief as a contested matter despite the Debtor's proposed surrender of the subject property in his (Amended) Chapter 13 Plan, Secured Creditor contends that its service upon both Midland Funding LLC and Cach LLC was proper and in compliance with Rule 7004.
9. Neither Midland Funding LLC or Cach LLC are insured depository institutions, but are rather foreign limited liability companies (LLCs), and as such, service of process pursuant to Rule 7004(h) does not apply. Furthermore, neither company is identified as an insured institution in the database of the Federal Deposit Insurance Corporation (FDIC).
10. Per the Certificate of Service accompanying Secured Creditor's Motion, as well as the Affidavit of Service filed concurrently therewith, Midland Funding LLC and Cach LLC were both served at their primary business address(es), via their respective attorney(s) of record, and via their registered agent(s) for service of process per the Corporations Division of the Office of the Secretary of State of the Commonwealth of Massachusetts—in compliance specifically with Rule 7004(b)(3).

WHEREFORE, Secured Creditor respectfully requests that the Court:

- 1) Vacate its Order denying Secured Creditor's Motion for Relief from the Automatic Stay [Doc. No. 67], OR clarify its position in said Order that service of the Motion at issue upon judicial lienholders, Midland Funding LLC and Cach LLC, was improper for the reasons set forth above; and/or
- 2) Grant such other relief as the court deems just and proper.

DATED: May 15, 2018

Respectfully submitted,
U.S. Bank National Association, as Trustee for
Structured Asset Securities Corporation, Mortgage
Pass-Through Certificates, Series 2006-BC6
By its attorney,

/s/ Marcus Pratt
Marcus Pratt, Esquire
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CERTIFICATE OF SERVICE

I, Marcus Pratt, Attorney for **U.S. Bank National Association, as Trustee for Structured Asset Securities Corporation, Mortgage Pass-Through Certificates, Series 2006-BC6** hereby certify that on May 15, 2018 I electronically filed the foregoing *Motion to Reconsider and/or Clarify* with the United States Bankruptcy Court for the District of MA using the CM/ECF System. I served the forgoing documents on the following CM/ECF participants:

John Fitzgerald, Assistant U.S. Trustee
Carolyn Bankowski, Trustee
Mark C. Rossi, Esquire

I certify that I have mailed by first-class and/or certified mail, as necessary and appropriate per the Federal Rules of Bankruptcy Procedure, the documents electronically filed with the Court on the following non-CM/ECF participants:

Carl H. Herisse
6 Beech Tree Lane
Holbrook, MA 02343

Midland Funding LLC
c/o Corporation Service Company, Registered Agent
84 State Street
Boston, MA 02109

Carl H. Herisse
276 West Elm Street, #2B
Brockton, MA 02301

Discover Bank
c/o Stephen A. Wiener, Esquire
Law Offices of Howard Lee Schiff P.C
340 Main Street, Suite 959
Worcester, MA 01608-0613

Pamela R. Herisse
6 Beech Tree Lane
Holbrook, MA 02343

Paul Digirolamo, Treasurer/Collector
Town of Holbrook, MA
50 N. Franklin Street
Holbrook, MA 02343

Discover Bank
502 East Market Street
Greenwood, DE 19950

Donna Andrew, Assistant Treasurer
Town of Holbrook, MA
50 N. Franklin Street
Holbrook, MA 02343

Discover Bank
c/o CT Corporation System, Registered Agent
155 Federal Street, Suite 700
Boston, MA 02110

Brenda Lee, Assistant Collector
Town of Holbrook, MA
50 N. Franklin Street
Holbrook, MA 02343

Cach LLC
c/o James Anthony Cambece, Esquire
J.A. Cambece Law Office, P.C.
200 Cummings Center, Suite 173D
Beverly, MA 01915

Cach LLC
625 Pilot Road, Suite 21
Las Vegas, NV 89119

Midland Funding LLC
as Assignee for Citibank USA NA
c/o Stephen A. Wiener, Esquire
Law Offices of Howard Lee Schiff P.C.
340 Main Street, Suite 959
Worcester, MA 01608-0613

Midland Funding LLC
3111 Camino Del Rio North, Suite 103
San Diego, CA 92108

Cach LLC
c/o Corporation Service Company, Registered Agent
84 State Street
Boston, MA 02109

Discover Bank
c/o David W. Nelms, Chairman & CEO
502 East Market Street
Greenwood, DE 19950

/s/ Marcus Pratt
Marcus Pratt, Esquire
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